IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.812 OF 2006

Ramesh Khanderao Datrange .. Petitioner.
Vs.
Smt.Chandra Ananda Jadhav .. Respondent.

Mr.J.S.Deo for the petitioner.
Mr.A.A.Agarwal for the respondent.

CORAM : D.B.BHOSALE, J.
DATED : 8TH NOVEMBER, 2006

P.C.:

. Heard learned counsel for the petitioner and the respondent.

2. This petition is directed against the judgment and order dated 16.12.2005 rendered by the appeal court allowing the appeal filed by the respondent-landlady partly. The suit was filed by the respondent on various grounds. The trial Court had dismissed the suit whereas the appeal court has allowed the appeal and passed a decree of eviction on the ground of bonafide requirement. The respondent-landlady was serving in Pune Municipal Corporation and she was residing in the quarter provided by Pune Municipal Corporation with her three sons and since at the relevant time they were minor, the suit premises was let out to the petitioner-tenant. In the suit, the respondent-landlady has set up a case that her all the

three sons are married and they have three children each and they are all staying in the rented premises. Mr.Deo, learned counsel for the petitioner endeavoured to point out that number of the members of family, as stated by the landlady, is not correct and there is variance in the evidence of the landlady and her witness. Even if that is accepted, the fact remains that there are atleast 8-9 members in her family and they are all residing in the rented premises. Mr.Deo, further submitted that the respondent-landlady has not come before the court with clean hands and she concealed the fact that she owns another premises and, therefore, the suit deserves to be dismissed on that ground alone. In support of this contention he placed reliance upon judgment of this court in **Tarachand Hassaram Shamdasani Vs. Durgashankar G.Shroff & Others. 2004 (Supp.) Bom.C.R.333**. According to the petitioner-tenant the two premises, bearing No.76/81/664 and 76/81/687, were allotted to the respondent-landlady and her husband in Matang Co-operative Housing Society Ltd., Shivaji Nagar, Pune. The suit premises is house no.76/81/687. These two premises are separate and that was concealed by the respondent-landlady. Admittedly, house no.76/81/664, if exists, does not stand in the name of respondent-landlady. The appeal court in paragraph 17 of the judgment has recorded a categoric finding that

these are not two different premises and they are one and the same. However, even if it is accepted, as tried to be contended, that they are two different premises still it cannot be said that the respondent-landlady concealed the said fact since admittedly house no.76/81/664 does not stand in her name and it is in possession of the tenant. The judgment relied upon by Mr.Deo, learned counsel for the petitioner, in view of the peculiar facts of this case is of no avail. Considering the findings of fact recorded by the appeal court and as I find that there is sufficient material on record to sustain those findings and considering extremely limited jurisdiction of this court under Article 227 of the Constitution of India to disturb the findings of fact this writ petition fails and is dismissed as such. At this stage Mr.Deo, learned counsel for the petitioner, prays for time to vacate the suit premises. Mr.Agarwal, learned counsel for the respondent, has no objection for granting reasonable time subject to filing of an usual undertaking by the petitioner. In the circumstances the petitioner is granted time till 31st May, 2007 to vacate the suit premises subject to filing of the usual undertaking in this court within three weeks from today with an advance copy of the undertaking to the learned counsel for the respondent. The writ petition is, accordingly, disposed of.

(D.B.Bhosale, J.)